

**UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF MONTANA**

In re

NAGA NATEKA,

Debtor.

Case No. **06-60021-7**

ORDER

At Butte in said District this 25th day of January, 2006.

On January 24, 2006, Debtor filed a chapter 7 case, without paying the filing fee. On January 24, 2006, Debtor filed an application for waiver of the chapter 7 filing fee for individuals who cannot pay the filing fee in full or in installments. Although Debtor does not state in the application what his family size is, Debtor disclosed on Schedule I that he is single and lists no dependents. The Court concludes his family size is one. He states that his combined monthly income from line 16 of Schedule I is \$422.22. Debtor states that his monthly expenses from line 18 of Schedule J is \$945.00. Debtor states in the Statement of Monthly Net Income on Schedule J that his monthly net income is \$-945, which is incorrect as it is \$-522.78 ($422.22 - 945 = -522.78$). Debtor in question 18 of the application for waiver states "I am unable to find a job in my field, and so am returning to school, where I will need all available money for living expenses."

On October 17, 2005, numerous amendments to the bankruptcy code became effective through the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 ("BAPCPA"). One of the amendments, 28 U.S.C. § 1930(f) (1), provides:

Under the procedures prescribed by the Judicial Conference of the United States,

the district court or the bankruptcy court may waive the filing fee in a case under chapter 7 of title 11 for an individual if the court determines that such individual has income less than 150 percent of the income official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. § 9902(2)]) applicable to a family of the size involved and is unable to pay that fee in installments. For purposes of this paragraph, the “filing fee” means the filing fee required by subsection (a), or any other fee prescribed by the Judicial Conference under subsection (b) and (c) that is payable to the clerk upon the commencement of a case under chapter 7.

For a more detailed analysis of the poverty guideline, the Court directs the reader to *In re Nelson*, Case 06-60001 (Bankr. D. Mont. Jan. 5, 2006) (For copy of decision *see* Montana Bankruptcy Reports or Court’s website). The Court calculates the poverty guideline and the 150% of the poverty guideline as follows:

POVERTY GUIDELINES AND CALCULATION OF 150% OF POVERTY GUIDELINE
48 Contiguous States

Persons in Family Unit	Poverty Guideline*	150% of Poverty Guideline**
1	\$9,570	\$14,355
2	12,830	19,245
3	16,090	24,135
4	19,350	29,025
5	22,610	33,915
6	25,870	38,805
7	29,130	43,695
8	32,390	48,585

* Source: <http://aspe.hhs.gov/poverty> . Federal Register, Vol. 70, No. 33, February 18, 2005, pp.8373-75. These values will change in February 2006 and annually thereafter.

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In applying the above analysis to Debtor’s application for waiver, the Court concludes that Debtor does qualify for a fee waiver for the following reasons. The first factor of 28 U.S.C. § 1930(f) requires the Court to determine if the family combined income is less than 150 percent

of the official poverty line for Debtor's family size. Debtor comprises a 1-member family. The poverty line for a family of 1 under the poverty guidelines is \$9,570.00. The total combined monthly income for Debtor is \$422.22. This amount times 12 months to establish annual income equals \$5,066.64. This amount is less than the 150 percent cap of the poverty guideline set at \$14,355. He satisfies the first factor.

The second factor of 28 U.S.C. § 1930(f) requires the Court to determine if Debtor is unable to pay the fee in installments. Debtor stated "I am unable to find a job in my field, and so am returning to school, where I will need all available money for living expenses." Debtor's monthly net income is \$-522.78. The Court concludes, based on Debtor's application that Debtor is unable to pay the chapter 7 filing fee in installments. For cause,

IT IS ORDERED that Debtor's application for waiver of the chapter 7 filing fee for individuals who cannot pay the filing fee in full or in installments is granted; and that the Debtor's filing fee is waived.

BY THE COURT



HON. RALPH B. KIRSCHER
U.S. Bankruptcy Judge
United States Bankruptcy Court
District of Montana